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SUBCOMMITTEE ON FEDERALISM AND THE CENSUS

Congressman Michael R. Turner, Chairman



OVERSIGHT HEARING

STATEMENT BY MICHAEL R. TURNER, CHAIRMAN

Hearing topic: "Lands of Lost Opportunity: What Can Be Done to Spur Redevelopment at America's Brownfield Sites?"

Tuesday, April 5, 2005
10:00 a.m.

Room 2154, Rayburn House Office Building

OPENING STATEMENT

Welcome to the Subcommittee on Federalism and the Census' oversight hearing entitled "Lands of Lost Opportunity: What Can Be Done to Spur Redevelopment at America's Brownfield Sites?"

In every community across this nation there are abandoned parcels of property marring the faces of our cities and towns. Behind rusted chain link fences are broken windows and crumbling buildings. Beneath the surface there are substances contaminating the local environment, robbing the communities in which they exist of new jobs and other economic opportunities.

There are an estimated 450,000 to 1 million of these parcels, known as brownfields, across our nation, contributing to community blight and thus lowering property values and decreasing tax revenues. These sites lay abandoned and unused due to federal environmental laws and regulations that encourage abandonment of contaminated property by creating disincentives for cleanup and redevelopment. Current federal law triggers liability for remediation of contaminated properties once landowners have knowledge of the contamination. If redevelopment begins and contamination is discovered, the owner may be liable for remediation costs. If an owner abandons the property without disturbing the contamination, remediation costs may be avoided. The net effect of these laws and loopholes is the encouragement of abandoning brownfields.

If we are to achieve our goal of restoring these properties to productive use, and redeveloping them into centers of economic and community vitality, we must craft a federal response to a federally created problem. We cannot leave brownfields and

abandoned factories as monuments to their once productive pasts. The redevelopment of brownfields will create jobs, new living and shopping options, and spur the improvement or development of transportation and infrastructure. If we make redevelopment of brownfields more attractive, we can also help reduce urban sprawl and save green space. In my hometown of the city of Dayton, Ohio, over 50 acres of land surrounding our downtown are brownfields that would attract jobs and spur economic expansion - if the city had assistance in addressing the environmental contamination from past use of the parcels.

In 2002, the President signed the Small Business Liability Relief and Brownfields Revitalization Act of 2001. While the law codified and secured independent appropriations for the EPA's brownfields program, the shining accomplishment of the Act was providing some relief from the daunting amount of potential liability for acquiring and attempting to redevelop a brownfield site. Specifically, the Act limits liability for owners of land that is contaminated by adjoining property as well as for prospective purchasers of known contaminated property. The Act also clarified the CERCLA "innocent landowner" defense and created additional liability relief by forbidding the federal government from intervening at sites being cleaned up under a state program except in certain circumstances. These are strong first steps in encouraging brownfields redevelopment and the Subcommittee looks forward to hearing from EPA on the effect the program and new liability relief has achieved in this field.

We also look forward to hearing from the Government Accountability Office. Last year, I, along with Chairman Tom Davis, requested that GAO study the status of brownfields redevelopment across the nation. GAO's report shows that stakeholders are generally positive about EPA's brownfields program but that additional incentives, such as a tax credit, are needed to spur further brownfields redevelopment and really make a difference in communities across the country.

Last year, I introduced H.R. 4480, the "Brownfields Revitalization Act of 2004" to address these two greatest impediments to redevelopment - liability and redevelopment costs. My bill proposed a tax credit of up to 50% for qualified remediation expenses of brownfields in certain poverty-rated areas. Specifically, credits are available to redevelopment projects where the local government entity includes a census tract with poverty in excess of 20%, although the project need not be located within that tract. H.R. 4480 also provides additional liability relief by allowing potentially responsible parties that contribute at least 25% of remediation costs to receive liability release for 100% of the approved remediation plan and demolition costs.

I plan to reintroduce this bill in the near future with a few key improvements. The revised bill will clarify the liability relief provisions, making clear that the relief is limited to the approved remediation plan while liability for other types of claims, such as liability to adjacent property owners or for outstanding health complaints, is unaffected. The bill also provides that an environmental remediation plan be approved by the state environmental agency.

The EPA's brownfields program has assisted a number of communities in brownfields assessment and clean up. Stakeholders are appreciative of the EPA's brownfields program, especially with the easing of the regulatory regime. However, when choosing between brownfields, grayfields, and greenfields for development projects, it still comes down to a cost-benefit analysis. Unless we significantly address the cost of redevelopment and clean up of these sites, the EPA brownfields program will continue to affect only a few thousand sites, leaving a major gap and burdening many communities with land that cannot be redeveloped and that remain a blighting influence.

We have two panels of witnesses before us to help us understand the state of brownfields redevelopment efforts nationwide as well as the impact of the EPA's brownfields program only two years into its statutory existence. We will also hear opinions from stakeholders on their ideas for improving or complementing the EPA brownfields program in order to encourage more aggressive redevelopment. First, we will hear from Mr. Thomas Dunne, the Deputy Assistant Administrator in the Office of Solid Waste and Emergency Response at the Environmental Protection Agency. Second, we will hear from Mr. John Stephenson, Director of the Natural Resources and Environment team at the Government Accountability Office.

The second panel of witnesses consists of representatives of the stakeholder community. First we will hear from the Honorable Don Plusquellic, Mayor of Akron, Ohio, on behalf of the U.S. Conference of Mayors. Mayor Plusquellic, I understand that you have a plane to catch. I hope that you will be able to stay for at least a portion of our Q&A session, but I certainly understand if you must excuse yourself earlier. Thank you for making time to speak with us today. After Mayor Plusquellic's testimony, we will hear from Mr. James Maurin as Chairman of the International Council of Shopping Centers and as a board member of The Real Estate Round Table. Rounding out our second panel, we will hear from Mr. Jonathan Phillips as Senior Director of Cherokee Investment Partners and Mr. Doug Steidl, President of the American Institute of Architects.

I look forward to the expert testimony our distinguished panel of leaders will provide today. Thank you all for your time today and welcome.

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